

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5936 of 1998

with

SPECIAL CIVIL APPLICATION No 6616 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

LAXMIBEN D/O MANCHARAM DAYALJI

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 5936 of 1998
MR DEVANG T SHAH for Petitioner
MR DP JOSHI ASSTT. GP for Respondent No. 1
MR DIPAK R DAVE for Respondent No. 3
MR KK TRIVEDI for Respondent No. 7
2. Special Civil ApplicationNo 6616 of 1998
MR DIPAK R DAVE for Petitioner
MR MUKESH PATEL ASSTT. GP for Respondent No. 1
MR KK TRIVEDI for Respondent No. 3, 7
MR DEVANG T SHAH for Respondent No. 5
MR DIPAK R DAVE for Respondent No. 6

CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 23/11/98

ORAL JUDGEMENT

Heard the learned advocates for rival parties and Mr. D.P.Joshi and Mr. Mukesh Patel, learned Assistant Government Pleaders appearing in respective writ petitions. The grievance has been made against the impugned order passed by the learned Special Secretary, Revenue in both these petitions. It has not been in dispute that the impugned order has been implemented by mutating entry as per the said order. In fact, the impugned order relates to the mutation of the entry/entries in the record of rights. It is not in dispute that there is a civil suit being Regular Civil Suit No. 665 of 1997 pending between the parties in the Court of the learned Civil Judge, (S.D.), Surat. It is also jointly submitted that there is another civil suit also filed in respect of the property in question.

2. Mr. K.K.Trivedi, learned advocate appearing for the rival parties further submits that the property in question has been transferred by his clients to Veljibhai Mohanbhai, Ravjibhai Patel, Vashram Shera, Dhirubhai M. Patel, Mansukhbhai Dayalbhai, and Jadav Trikambhai Patel. It has also been submitted by Mr. Trivedi that there are around 28 plot holders as per the alleged sanctioned scheme. While keeping rights of the parties open in the said proceedings and also while setting the respective plaintiffs at liberty to join the aforesaid persons as parties in the concerned suits, following direction is issued :

- (1) The impugned order passed by the learned Special Secretary, Revenue shall not be treated as adversely affecting the rights of the parties to the aforesaid two civil suits.
- (2) The parties to both these petitions will maintain status quo qua property in question till any one of them moves the concerned civil court for appropriate orders with regard to dealing of the property in question.

Subject to the aforesaid directions, these petitions are disposed of. Rule is discharged. No order as to cost.

23.11.1998. (M.S.Parikh,J.)

Vyas